

Bureau for Private Postsecondary and Vocational Education

Modified Language

Changes to the originally proposed language for the proposed regulations are shown by double underline for new text and underline with strikeout for deleted text. Changes to the forms are shown by single underline for new text and strikeout for deleted text.

Chapter 7. Student Tuition Recovery Fund

Article 1. General Provisions

(1) Amend Section 76000 to read as follows:

76000. Definitions.

For purposes of Sections ~~94342~~ 94944 and ~~94343~~ 94945 of the Code and this chapter, the following definitions apply:

(a) "Prepaid" describes any amount of money which an institution accepts in advance of rendering educational services.

(b) "Fund" means the Student Tuition Recovery Fund.

(c) "Tuition" means the ~~charge~~ actual amount charged each student for instruction, ~~and also, for assessment purposes, includes all charges for instructional materials, and equipment costs and all any other fee, whether or not these amounts are collected during the assessment period~~ required of the student in order for the student to receive a certificate of completion or diploma attesting to the completion of the instruction required for such certificate or diploma. "Tuition" does not include costs of room and board, supplies, an application fee or transportation. For purposes of calculating assessment under section 94945, tuition does not include the STRF fee.

(d) "California resident" means a person who resides in California at the time the enrollment agreement is signed or when he or she receives lessons at a

California mailing address from an approved institution offering correspondence instruction. A student who is temporarily residing in California for the purpose of pursuing an education or who holds a visa issued by the United States Immigration and Naturalization Service, such as a student visa or temporary workers visa, is not considered a "California resident."

(e) "Closed institution" means an institution at which a closure has occurred.

(f) "Closure" as described in paragraph (1) of subdivision (a) of Section 94342 94944 of the Code, also includes class instruction that ceases to be offered because the institution moved the location of the class instruction without compliance with subdivision (h) of Section 94319.4 94873 of the Code and this chapter.

(g) "Economic loss" means any pecuniary loss or out-of-pocket expense which is the sum of the student's tuition, cost of equipment and materials, and interest on student loans used to pay for tuition, equipment and materials, collection costs and penalties. and Economic loss shall also include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. Economic loss does not include STRF fees, application fees or non-pecuniary damages such as inconvenience, aggravation, emotional distress, or punitive damages.

(h) "New student" means a California resident student who pays his or her tuition directly or through a loan to an institution and attends an institution on or after January 1, 2002. "New student" does not include a student whose tuition is paid by a third-party payer.

(h) "Continuing student" is a student who signed an enrollment agreement before January 1, 2002 for classes starting on or after January 1, 2002. A continuing student is not a "new student," as defined in section 94945 of the Code.

(i) "Newly enrolled student" means a California resident student who pays his or her tuition and STRF fee directly or through a loan to an institution and attends an institution on or after January 1, 2002. "Newly enrolled student" does not include a student whose tuition is paid by a third-party payer. is a "new student," as defined in section 94945 of the Code.

(j) "Soon after" means, for the purposes of section 94944(d)(1)(F), within 90 days after an institution's closure.

(k) "Student Tuition Recovery Fund fee" or "STRF fee" means a state-imposed charge required to be paid by a California resident student who pays his or her tuition directly or through a loan to an institution.

~~(h)~~ (l) "Teach-out" means an arrangement whereby an institution offers to provide to a student, without any additional charge, all of the instruction promised but not provided to that student by a closed institution because of the closure.

~~(i)~~ (m) "Teach-out institution" means the institution offering a teach-out.

Note: Authority cited: Sections 94770 94305 94774 and 94337 94778, Education Code.
Reference cited: Sections 94825, 94852, 94873 94342 94944 and 94343 94945, Education Code.

Amend Section 76010 to read as follows:

76010. Teach-Out Plan.

An institution closing or not seeking renewal to operate before the completion of educational services by all enrolled students shall propose a written plan to assist the ~~Council~~ Bureau to develop teach-out options for students.

Note: Authority cited: Sections 94770, ~~94305~~ 94774 and ~~94337~~ 94778, Education Code. Reference cited: Section ~~94342~~ 94944, Education Code.

Article 2. Assessment

(2) Repeal Section 76100:

~~**76100. Institutions Subject to Assessment.**~~

~~The Council shall assess institutions which collect any amounts in advance of rendering service, including prepaid tuition.~~

~~Note: Authority cited: Sections 94305 and 94337, Education Code. Reference cited: Sections 94342 and 94343, Education Code.~~

(3) Repeal Section 76110 as follows:

~~**76110. Assessment Base.**~~

~~Assessments shall be based on the total for all newly enrolled students during the assessment period. A student shall not be considered to be newly enrolled until the expiration of the student's right of rescission under Section 94312 or 94317 of the Education Code, whichever is applicable.~~

~~Note: Authority cited: Sections 94305 and 94337, Education Code. Reference cited: Section 94343, Education Code.~~

Adopt Section 76115 as follows:

(5) **76115. Eligibility for STRF**

A student who does not prepay his or her STRF fee at the time the student pays tuition is not eligible for STRF protection.

~~Note: Authority cited: Sections 94774 and 94778, Education Code. Reference cited: Sections 94810, 94825 and 94945, Education Code.~~

(6) (5) Amend Section 76120 to read as follows:

76120. Amount of Assessment.

(a) For enrollment agreements signed during the From January 1, 2002 to December 31, 2002 period inclusive, An an assessment of ten cents (\$0.10) three dollars (\$3.00) per one hundred dollars (\$100) one thousand dollars (\$1,000) of tuition, rounded to the nearest thousand dollars, shall apply applies to the actual price charged each California resident new student for as tuition is paid or loans are funded on behalf of the student,; regardless of the portion which is prepaid, up to and including four thousand dollars (\$4,000) and an assessment of fifty cents (\$0.50) per one hundred dollars (\$100) shall apply to the portion of tuition in excess of four thousand dollars (\$4,000); except that, for educational services costing For tuition charged paid of one thousand dollars (\$1,000) or less, the assessment shall be one dollar (\$1) is three dollars (\$3.00).

(b) Commencing with January 1, 2003, an assessment of two dollars and fifty cents (\$2.50) per one thousand dollars (\$1,000) of tuition, rounded to the nearest thousand dollars, applies to the actual price charged each new student for as tuition is paid or loans are funded on behalf of the student. , regardless of the portion which is prepaid. For tuition charged paid of one thousand dollars (\$1,000) or less, the assessment is two dollars and fifty cents (\$2.50).

(c) Continuing students, as defined under Section 76000(h), shall be assessed the fee in existence before January 1, 2002 as follows:

(1) Two dollars and fifty cents (\$2.50) per student for a total course cost of one cent (\$0.01) to two thousand nine hundred ninety nine dollars and ninety-nine cents (\$2,999.99) inclusive.

(2) Three dollars and fifty cents (\$3.50) per student for a total course cost of three thousand dollars (\$3,000.00) to five thousand nine hundred ninety nine dollars and ninety-nine cents (\$5,999.99) inclusive.

(3) Four dollars and fifty cents (\$4.50) per student for a total course cost of six thousand dollars (\$6,000.00) to eight thousand nine hundred ninety nine dollars and ninety-nine cents (\$8,999.99) inclusive.

(4) Five dollars and fifty cents (\$5.50) per student for a total course cost of nine thousand dollars (\$9,000.00) or more.

~~(b) - (c)~~ (d) If an institution has not paid assessments to the Fund for a total of 16 quarters at the time the institution is granted an approval to operate, the Council Bureau shall levy assessments on the institution for up to an aggregate total of 16 quarters regardless of whether the Fund balance as of June 30 of the prior fiscal year exceeds one million five hundred thousand dollars (\$1,000,000)-(1,500,000) in the degree-granting postsecondary educational institution account or four million five hundred thousand dollars (\$4,500,000) in the vocational educational institution account.

Note: Authority cited: Sections 94305 94774 and 94337 94778, Education Code.
Reference cited: Section 94343 94945, Education Code.

~~(7)~~ (6) Amend Section 76130 to read as follows:

76130. Due Date of Assessments and Quarterly STRF Assessment Reports Reporting Forms.

~~(a) Assessments are due within 30 days of the end of each quarter. The Bureau shall provide each institution and each registered institution offering Short-term Career Training with a Quarterly STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002, as applicable, during the last month of each calendar quarter: March, June, September and December.~~

~~(b) An institution and a registered institution offering Short-term Career Training shall complete the Quarterly STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002, as applicable, and remit the STRF fees collected from continuing, new and newly enrolled students to the Bureau no later than the last day of the month following the close of the quarter as follows: April 30 for the first quarter, July 31 for the second quarter, October 30 31 for the third quarter, and January 31 for the fourth quarter. An institution and a registered institution offering Short-term Career Training is are not required to remit a STRF fee for a continuing, new or newly enrolled student who has exercised his or her right of rescission under sections 94812, 94822 and/or 94867.~~

~~(1) If the due date falls on a Saturday, Sunday or State or federally-approved holiday, the due date shall be extended to the next day which is not a Saturday, Sunday or State or federally-approved holiday.~~

~~(2) An institution that is more than 30 days delinquent in the payment of any STRF fee shall pay a penalty fee of 20 percent of the amount of the fee that is delinquent.~~

~~(b)~~ (c) In the event of a school closure, unpaid assessments shall be remitted to the Council Bureau within seven days following the cessation of instruction.

(d) An institution and a registered institution offering Short-term Career Training shall collect and maintain a record of student information to substantiate the data reported on the Quarterly STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002, and eligibility requirements under the Fund that shall include the following for each student:

- (1) Identification number and/or Social Security number,
- (2) First name,
- (3) Last name,
- (4) Local or mailing address,
- (5) Home address,
- (6) Date enrolled enrollment agreement signed,
- (7) Courses and course costs,
- (8) Amount of STRF fee collected,
- (9) Quarter in which the STRF fee was remitted to the Bureau, and
- (10) Third-party payer identifying information,
- (11) Total tuition charged,
- (12) Total tuition paid.

(e) The data under this subdivision (d) shall be maintained in an intelligible form and orderly manner either manually or in electronic format so that the information is readily available and open to inspection by the Bureau upon request. All record-keeping systems shall include identification of coding systems that are readily available whenever they are used to record and maintain any of the information required under this subdivision.

(f) For any quarter occurring after January 1, 2002 in which the Bureau failed to send the Quarterly Assessment Report, Form #STRF-03, to an institution, an institution shall remit STRF fees collected from new students and a completed Quarterly Assessment Report, Forms #STRF-03, within 40 days from the date of

mailing by the Bureau. If the Bureau fails to send the STRF Assessment Reporting Forms #03, 04 and/or 05, effective January 1, 2002 to an institution or registered institution offering Short-term Career Training in accordance with section 76130(b), the following applies:

(1) An institution or registered institution offering Short-term Career Training shall remit STRF fees collected from continuing and new students and completed STRF Assessment Reporting Forms # STRF-03, 04 and/or 05, effective January 1, 2002, as applicable, for every quarter occurring after January 1, 2002 in which the Bureau failed to send the forms described under section 76130(b).

(2) STRF Assessment Reporting Forms #STRF 03, 04 and 05 and corresponding STRF fees shall be remitted to the Bureau within 40 days from the date of mailing by the Bureau.

Note: Authority cited: Sections 94305 94774 and 94337 94778, Education Code. Reference cited: Sections 94812, 94822, 94829, 94832, 94835, 94836, 94867 and 94343 94945, Education Code.

Article 3. Payments from the Fund

~~(8)~~ (7) Amend Section 76200 to read as follows:

76200. Application for Payment.

(a) Student Tuition Recovery Fund (STRF) Application, Form number #STRF-04 02, effective January 1, ~~1992~~ 2002, shall be used to file claims for payment from the Fund.

(b) The ~~Council~~ Bureau may conduct an investigation to verify whether to grant or deny a claim.

(c) If the ~~Council~~ Bureau pays the claim, the amount of the payment is measured by the total amount of the student's economic loss, as defined in Section

~~76000(g). up to an amount equal to the sum of the student's tuition, cost of equipment and materials, and interest on student loans used to pay for tuition, equipment, and materials.~~ The amount of the refund is not dependent on, or necessarily limited to, the amount of refund the student would have received from the institution if the student had voluntarily withdrawn.

(d) A judgement against an institution for any violation of the Act that provides for damages or restitution for students affected by the violation and that was obtained in any group or class action. In any action brought by the ~~Council~~ Bureau, the Attorney General, or any other law enforcement agency, or in any action brought pursuant to Section 17200 of the Business and Professions Code, shall be entitled to payment from the Fund provided that the judgement cannot be collected despite diligent collection efforts, a claim is filed within two years after the judgement became final, a claim indicating the total amount of the judgment allocable to each student is filed, and the total amount paid to each student does not exceed the amount which the student would have been entitled to receive if the student had obtained a judgment for the amount allocable to the student.

(e) If a student elects a teach-out, the following conditions apply:

(1) If the student withdraws from the teach-out institution within the first two weeks of enrollment, the student shall be entitled to apply to the Fund to recover the student's full economic loss related to the payment of tuition to the closed institution.

(2) If the student withdraws from the teach-out institution after the first two weeks of enrollment, the student shall be entitled to apply to the Fund to recover a pro rata refund, to the extent provided by statute, for the portion of the educational service paid for but not received.

(3) If the teach-out institution receives the proceeds of any financial aid disbursements, the teach-out institution shall make the appropriate refunds or

payments as provided in paragraph (1) or (2) but only to the extent of proceeds actually received.

(4) If the teach-out institution provides all of the instruction which the closed institution represented it would provide, the student shall not be entitled to claim reimbursement of the amount that the student paid to the closed institution for instruction.

(5) In addition to any recovery provided in paragraph (1) or (2), a student may claim all economic loss incurred as a result of the closure up to the maximum amount permitted by statute.

Note: Authority cited: Sections ~~94305~~ 94774 and ~~94337~~ 94778, Education Code.
Reference cited: Sections ~~94342~~ 94944 and 94945, Education Code.

~~(9)~~ (8) Amend Section 76210 to read as follows:

76210. Payment of Claims.

(a) The ~~director~~ Bureau ~~may~~ shall negotiate with a lender, holder, guarantee agency, or the U.S. Department of Education for the full compromise or write-off of student loan obligations to relieve students of economic loss and, if possible, to reduce the liability of the Fund for the payment of claims.

(b) The ~~Council~~ Bureau may pay, with the student's permission, a student's claim directly to the lender, holder, guarantee agency, or U.S. Department of Education under a federally guaranteed student loan program only if the payment of the claim fully satisfies all of the student's loan obligations related to attendance at the institution for which the claim was filed.

Note: Authority cited: Sections ~~94305~~ 94774 and ~~94337~~ 94778, Education Code.
Reference cited: Section ~~94342~~ 94944, Education Code.

~~(10)~~ (9) Adopt Section 76215 to read as follows:

76215. Student Tuition Recovery Fund Disclosures

(a) An institution approved under Article 8 (commencing with section 94900 of the Code), Article 9 (commencing with section 94915 of the Code), or a registered institution offering Short-term Career Training under section 94931(c)(2) of the Code shall include on both the enrollment agreement and the current schedule of student charges, the following statement:

“You must pay the state-imposed fee for the Student Tuition Recovery Fund (STRF) if all of the following applies to you:

1. If ~~y~~You are a student, who is a California resident and prepays all or part of your tuition either by cash, guaranteed student loans, or personal loans, and you are not the recipient of any third-party payer assistance, you must pay the state-imposed fee for the Student Tuition Recovery Fund (STRF).

2. Your total charges are not paid by any third-party payer such as an employer, government program or other payer unless you have a separate agreement to repay the third party.

You are not eligible for protection from the STRF and you are not required to pay the STRF fee, if either of the following applies:

1. ~~If you~~ You are not a California resident, you are not eligible for protection from the STRF. If your

2. Your total charges are paid by a third party, such as an employer, government program or other payer, and you have no separate agreement to repay the third party, you are not eligible for protection from the STRF. If you do have a separate agreement to repay the third party who paid your total charges,

you may be eligible for the STRF. If you are not eligible for protection from the STRF, you are not required to pay the STRF fee.”

(b) In addition to the statement described under subdivision (a) of this section, the institution or registered institution offering Short-term Career Training under section 94931(c)(2) of the Code shall include on the current schedule of student charges, the following statement:

“The Legislature State of California created the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic losses suffered by California residents who were students attending schools approved by, or registered to offer Short-term Career Training with, the Bureau for Private Postsecondary and Vocational Education.

You may be eligible for STRF if you ~~resided in~~ are a California resident, at the time you signed an enrollment agreement or at the time you received lessons at a California mailing address from a school approved to offer correspondence instruction in California, if you prepaid tuition, paid the STRF fee, and suffered an economic loss as a result of any of the following:

1. The school closed before the course of instruction was completed.
2. The school's ~~failed~~ failure to pay refunds or charges on behalf of a student owed to a third party with whom you have a separate agreement to repay for license fees or any other purpose, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the school.
3. The school's ~~failed~~ failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or

reimburse proceeds received by the school prior to closure in excess of tuition before the school closed, as required by law. and other costs.

4. The school's ~~did not live up to its agreement for the course of instruction, breach or anticipatory breach of the agreement for the course of instruction.~~

5. There was a decline in the quality of the course of instruction within 30 days before the school closed, or, if the decline began earlier than 30 days prior to closure, a the time period of decline determined by the Bureau.

6. The school committed fraud during the recruitment or enrollment or program participation of the student.

You may also be eligible for STRF if you were a student that was unable to collect a court judgment rendered against the school in for violation of the Private Postsecondary and Vocational Education Reform Act of 1989."

(c) The Bureau shall mail the Notice and Explanation of Student Rights under the Student Tuition Recovery Fund, Form STRF-04 06, effective January 1, 2002, to students soon after an institution's closure or upon request from a student for an explanation of his or her rights under the Student Tuition Recovery Fund.

Note: Authority cited: Sections 94774 and 94778, Education Code.
Reference cited: Sections 94810, 94825 and 94944, Education Code.